United Nations S/2002/101

Security Council

Distr.: General
22 January 2002

Original: English

Letter dated 17 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan, adopted by the Committee under the no-objection procedure on 17 January 2002 and submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234) (see annex).

(*Signed*) Alfonso **Valdivieso**
Chairman
Security Council Committee established
pursuant to resolution 1267 (1999) concerning Afghanistan

02-22580 (E) 230102

Annex

Report of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan

I. Introduction

1. The purpose of the present report is to present a factual summary of the Committee's activities since its last report (S/2000/1254), adopted on 28 December 2000, in accordance with the transparency measures outlined by the President of the Security Council in his note of 29 March 1995 (S/1995/234).

II. Background information

2. On 15 October 1999, the Security Council adopted resolution 1267 (1999), demanding the turnover of Osama bin Laden to appropriate authorities. Since this condition was not met by 14 November 1999, the Security Council imposed, as per paragraph 4 (a) and (b), a flight ban on any aircraft owned, leased or operated by or on behalf of the Taliban, as well the freezing of funds directly or indirectly owned or controlled by the Taliban. Those measures were augmented by Security Council resolution 1333 (2000) of 19 December 2000, in paragraphs 5, 8, 10 and 11 of which the Council decided, inter alia, that States should: prevent the direct or indirect supply, sale and transfer to the territory of Afghanistan under Taliban control, as designated by the Committee, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, as well as of technical advice, assistance or training related to the military activities of the armed personnel under the control of the Taliban; withdraw any of their officials, agents, advisers and military personnel employed by contract or other arrangement present in Afghanistan to advise the Taliban on military or related security matters and urge other nationals in this context to leave the country; close immediately and completely all Taliban offices in their territories; close immediately all offices of Ariana Afghan Airlines in their territories; freeze without delay funds and other financial assets of Osama bin Laden and individuals and entities associated with him as designated by the Committee, including those in the al-Qa'idah organization; prevent the sale, supply or transfer by their nationals or from their territories of the chemical acetic anhydride to any person in the territory of Afghanistan under Taliban control, as designated by the Committee, or to any person for the purpose of any activity carried on in or operated from the territory under Taliban control as designated by the Committee; and deny any aircraft permission to take off from, land in or overfly their territories if that aircraft has taken off from or is destined to land at a place in the territory of Afghanistan designated by the Committee as being under Taliban control.

3. By paragraph 15 (a) of resolution 1333 (2000) the Security Council also requested the Secretary-General to appoint a committee of experts to make recommendations to the Council regarding how the arms embargo and the closure of terrorist training camps demanded in paragraphs 3 and 5 of that resolution could be monitored.

4. Following consultations among the members of the Security Council, the Council agreed to elect the bureau of the Committee for 2001, which consisted of Ambassador Alfonso Valdivieso (Colombia) as Chairman, with the delegations of Mali and Ukraine providing the two Vice-Chairmen (S/2001/10).

5. On 30 July 2001, the Security Council adopted resolution 1363 (2001), in which it requested the Secretary-General to establish, in consultation with the Committee, a mechanism to monitor the implementation of the measures imposed by resolutions 1267 (1999) and 1333 (2000), to offer assistance to States bordering the territory of Afghanistan under Taliban control and other States in order to increase their capacity regarding the implementation of the measures imposed by the aforementioned resolutions and to collate, assess, verify wherever possible, report and make recommendations on information regarding violations of the measures imposed by the above resolutions.

6. The Committee continued to be guided in its work by the guidelines for the conduct of its work, which were adopted on 1 February 2000.

III. Summary of activities of the Committee

7. During this period the Committee held five formal meetings and numerous informal consultations of the members of the Committee at the expert level. The Committee was very active in discharging its responsibilities pursuant to paragraph 16 of resolution 1333 (2000), in addition to those set out in resolution 1267 (1999). After the terrorist attacks in the United States of America of 11 September 2001, and the military response of the United States of America and the coalition against al-Qa'idah and the Taliban, the activities of the Committee have concentrated on the lists of individuals and entities associated with al-Qa'idah. An account of the Committee's major activities in the specific areas of its competence follows.

8. List of points of entry and landing areas for aircraft within the territory of Afghanistan under control by the Taliban: In accordance with paragraph 16 (a) of resolution 1333 (2000), the Committee, on 22 February 2001, established a list concerning landing areas for aircraft within the territory of Afghanistan under control by the Taliban. The Committee also designated the territory of Afghanistan under Taliban control by means of a map available in the web page of the Committee. In a letter from its Chairman, dated 14 December 2001, addressed to the President of the Security Council (S/2001/1226), the Committee subsequently noted that, in the light of the rapidly changing situation in Afghanistan, maps of Afghanistan territory under Taliban control are either obsolete or rapidly becoming obsolete. In the same letter, the Committee reminded Member States of their continuing obligations under all Security Council resolutions not to provide assistance to the Taliban, al-Qa'idah or Osama bin Laden or to individuals and entities associated with them.

9. List of organizations providing humanitarian assistance to Afghanistan: On 19 January 2001 the Committee, in accordance with paragraphs 12 and 16 (d) of resolution 1333 (2000), approved and issued as a press release an initial list of organizations and governmental relief agencies providing humanitarian assistance to Afghanistan, to be exempted from the flight ban, including the United Nations and its agencies, governmental relief agencies, the International Committee of the Red Cross and non-governmental organizations. The list was updated as necessary.

10. On 9 February 2001, the Committee issued a press release outlining the procedures for humanitarian aid exemption under resolution 1333 (2000) for organizations and governmental relief agencies that were to provide humanitarian assistance to Afghanistan, including the United Nations and its agencies, governmental relief agencies providing humanitarian assistance, the International Committee of the Red Cross and non-governmental organizations, as appropriate.

11. Lists of individuals and entities whose assets should be frozen: On 25 January 2001, the Committee issued a press release containing a list of individuals, identified by the Committee, to whom the Member States were required to apply the provisions of paragraph 4 (b) of resolution 1267 (1999) and 8 (c) of resolution 1333 (2000). This list was added to the list adopted by the Committee in April 2000. Pursuant to paragraph 16 (b) of resolution 1333 (2000), the Committee was requested to maintain an updated list with respect to paragraph 8 (c) of that resolution. On 7 February 2001, the Committee amended the list published on 25 January 2001, concerning paragraph 4 (b) of resolution 1267 (1999). On 8 March 2001, the Committee issued a consolidated list in connection with paragraph 4 (b) of resolution 1267 (1999) and paragraph 8 (c) of resolution 1333 (2000). Further addenda to the list were issued on 20 August 2001, 8 October 2001, 19 October 2001, and 9 November 2001.

12. On 26 November 2001, the Committee issued a press release containing a second consolidated list of individuals and entities. The Chairman of the Committee addressed a note verbale to all Member States forwarding the new consolidated list, reiterating their obligation to report to the Committee on the steps taken to effectively implement resolutions 1267 (1999) and 1333 (2000) and requesting them to provide to the Committee relevant information regarding additional measures adopted or updates. On 26 December 2001, the Committee issued an addendum to its latest consolidated list.

13. In relation to paragraph 16 (e) of resolution 1333 (2000), the Secretariat set up a web site to make available relevant information regarding the implementation of the measures contained in resolutions 1267 (1999) and 1333 (2000): http://www.un.org/Docs/sc/committees/AfghanTemplate.htm.

14. Consideration of requests for the exceptions set out in paragraphs 6 and 11 of resolution 1333 (2000): As an exception to the measures imposed by its paragraph 5, resolution 1333 (2000) provided that those measures should not apply to supplies of non-lethal military equipment intended for humanitarian or protective use and related technical assistance or training and also provided that the measures outlined in paragraph 11 should not be applied to particular flights approved in advance by the Committee on the grounds of humanitarian need, including religious obligations such as the performance of the Hajj, or on the grounds that the flight promotes discussion of a peaceful resolution of the conflict in Afghanistan or is likely to promote Taliban compliance with resolutions 1267 (1999) and 1333 (2000).

15. On this basis, on 16 January 2001, the Committee authorized a request by the Taliban for 102 round trips in two phases (first phase 25 January to 27 February 2001; second phase 7 March to 9 April 2001) for Ariana Afghan Airlines to transport 13,600 Afghan pilgrims to perform the Hajj, from Kabul and Kandahar (Afghanistan) to Jeddah (Saudi Arabia), with a stopover for refuelling at Sharjah (United Arab Emirates). The Committee agreed, on the condition that any change of the flight schedule and/or change of aircraft should be communicated to the

Committee for its approval and that the aircraft would be inspected upon departure, in Sharjah during the stopover, and upon arrival at Jeddah, with the same procedure to apply to the return trip. At the request of the Taliban, the Committee, on 22 January 2001, approved 33 additional return trips for the aforementioned purpose. On 12 February 2001, the Committee authorized an additional 20 round trips in two phases (same dates as above) for Air Kazakhstan, c/o Avicon International Consultants (operating on behalf of Ariana Afghan Airlines), to transport Afghan pilgrims to perform the Hajj from Kandahar (Afghanistan) to Jeddah (Saudi Arabia).

16. The Committee approved several other humanitarian flights, including a request dated 11 January 2001 from Germany to transport Afghan, Tajik and Kazakh children for medical treatment in Germany and a United Nations flight to transport the late Mullah Mohammad Rabbani to Pakistan for medical treatment.

17. At the request of the United Nations Coordinator for Afghanistan, the Committee approved several requests for the shipment of demining equipment to Afghanistan, solely for use in the Humanitarian Demining Programme. The Committee also approved several requests from the United Kingdom of Great Britain and Northern Ireland for similar equipment to be shipped to Afghanistan.

18. In relation to the provisions of paragraph 6 (f) of resolution 1267 (1999), on 10 August 2001, the Committee authorized the transfer of the second instalment of funds to the Ministry of Civil Aviation to cover its expenses, provided that the International Air Transport Association (IATA)/the International Civil Aviation Organization (ICAO) and the Ministry of Civil Aviation would provide the Committee with reports on how these funds were used. It was also agreed that the Committee would authorize, under similar conditions, the reimbursement of the costs of diesel fuel consumed at Afghan airports between November 1999 and July 2000, as per the request by the Ministry of Civil Aviation for the transfer of air navigation charges collected by IATA.

Other activities

19. On 27 June 2001, the Committee held an informal meeting with Vincent McClean, Director of the New York Office of the United Nations Office for Drug Control and Crime Prevention to discuss the situation of poppy cultivation in Afghanistan and the aid programmes to former poppy cultivators.

20. On 10 August 2001, the Committee held an informal meeting with Dennis Terao and Gene Griffiths, representatives of IATA and ICAO, respectively, to discuss the situation of aviation in Afghanistan.

IV. Committee of Experts established pursuant to resolution 1333 (2000)

21. After consultation with the Committee, on 8 March 2001, the Secretary-General addressed a letter to the President of the Security Council (S/2001/206) to inform him that, in accordance with paragraph 15 (a) of resolution 1333 (2000), he had established a Committee of Experts, for a period of 60 days from the resolution's effective entry into operation, to make recommendations to the Security Council regarding how the arms embargo and the closure of terrorist training camps demanded in paragraphs 3 and 5 of resolution 1333 (2000) could be monitored,

including the use of information obtained by Member States through their national means and provided by them to the Secretary-General. The Committee consisted of the following experts:

Haile Menkerios (Eritrea, Chairman)
Reynaldo O. Arcilla (Philippines)
Michael E. G. Chandler (United Kingdom of Great Britain and Northern Ireland)
Mahmoud Kassem (Egypt)
Atilio N. Molteni (Argentina)

22. On 4 June 2001, the Committee considered the report of the Committee of Experts on Afghanistan appointed pursuant to paragraph 15 (a) of resolution 1333 (2000) (S/2001/511). At that meeting Ambassador Haile Menkerios, Chairman of the Committee of Experts, suggested that a new monitoring mechanism should be established in order to strengthen the infrastructure already in existence within the region, which could be done through: (a) a support organization; (b) the enactment of legislation at the international and national level to deal with sanctions violations; and (c) the provision of necessary equipment and expertise to neighbouring States. The members of the Committee welcomed the recommendations contained in the report of the Committee of Experts and broadly endorsed them. Furthermore, the Committee recommended that the monitoring group should be located in New York to facilitate coordination among the Chairman of the Committee, the Secretariat and the Security Council.

23. On 21 May 2001, the Secretary-General forwarded the report of the Committee of Experts to the President of the Security Council for the attention of the Council members. The Security Council considered the report on 5 June 2001 at its 4325th meeting (see S/PV.4325). Members of the Council expressed support for the proposal to establish a monitoring mechanism to oversee the sanctions regime and indicated their readiness to work on a draft resolution to realize that objective. They were also in agreement as to the importance of the commitment of the neighbouring countries if the sanctions were to succeed. Afghanistan, Pakistan and some other non-members of the Security Council also commented on the report.

V. Monitoring Group

24. The Security Council in paragraph 3 of its resolution 1363 (2001) of 30 July 2001, requested the Secretary-General to establish, in consultation with the Committee established pursuant to resolution 1267 (1999), within 30 days of the date of the adoption of that resolution, and for a period running concurrently with the application of the measures imposed by resolution 1333 (2000), a mechanism consisting of a Monitoring Group in New York, composed of up to five experts, including a Chairman and a 15-member Sanctions Enforcement Support Team. The Monitoring Group was tasked to monitor the implementation of all the measures imposed by resolutions 1267 (1999) and 1333 (2000), including in the fields of arms embargoes, counter-terrorism and related legislation and, in view of the link to the purchase of arms and financing of terrorism, money-laundering, financial transactions and drug trafficking. In accordance with paragraph 4 (a) of resolution 1363 (2001), the Secretary-General appointed five members of the Monitoring Group on 18 September 2001 (S/2001/887), three of whom became unable to

assume their functions and were replaced (S/2001/952), (S/2001/1056). The experts are:

Michael Chandler (United Kingdom of Great Britain and Northern Ireland)
Philippe Graver (France)
Hassan H. Ali Abaza (Jordan)
Surendra Bahadur Shah (Nepal)
Michael D. Langan (United States of America)

25. The Monitoring Group submitted its report on 14 January 2002 (S/2002/65).

VI. Responses received by the Committee from Member States on their implementation of Security Council resolutions 1267 (1999) and 1333 (2000)

26. By paragraph 20 of resolution 1333 (2000), all States were requested to report to the Committee, within 30 days of the coming into force of the resolution, on the steps they had taken to enforce the measures imposed by its paragraphs 5, 8, 10 and 11. In this connection, on 19 January 2001, a note verbale was sent by the Chairman to all States drawing their attention, in particular, to the provisions of the aforementioned paragraphs and requesting information on the steps they had taken to give effect to those provisions. On 4 April 2001, the Chairman issued a report (S/2001/326) on measures taken by States in the implementation of paragraphs 5, 8, 10 and 11 of resolution 1333 (2000), containing the replies from 46 Member States. An addendum to the report, containing 20 additional replies, was issued on 21 November 2001 (S/2001/326/Add.1), bringing to 64 the total number of States that replied as at 31 October 2001. Three more replies were later received. It should be noted that a number of States, in their reports on the implementation of resolution 1333 (2000), also provided information on the implementation of resolution 1267 (1999).

27. On 26 November 2001, the Chairman of the Committee addressed a note verbale to all Member States forwarding the new consolidated list of individuals and entities, reiterating their obligation to report to the Committee on the steps taken to effectively implement resolutions 1267 (1999) and 1333 (2000) and requesting those States that had already submitted their reports to provide to the Committee updated information regarding additional measures adopted.

VII. Humanitarian implications of the sanctions measures

28. During the period under review, the Secretary-General submitted to the Security Council, in accordance with paragraph 15 (d) of its resolution 1333 (2000), four reports on the humanitarian implications of the measures imposed by resolutions 1267 (1999) and 1333 (2000) (S/2001/241, S/2001/695, S/2001/1086 and S/2001/1215). These reports were considered by the Committee and by the Security Council.

29. In his latest report on the subject, of 18 December 2001 (S/2001/1215), the Secretary-General observed that the frequent and efficient communication and interaction between the Committee, the Office for the Coordination of Humanitarian Affairs of the Secretariat and the humanitarian programmes in the field facilitated

the effective handling of the humanitarian exemption procedure and functioned as a troubleshooting mechanism for humanitarian problems linked to the sanctions regime. Throughout the monitoring process, the exemption procedures worked well and in a timely and efficient manner.

30. In the same report, however, the Secretary-General noted that, during the whole monitoring period, the Taliban authorities maintained an active public information campaign within Afghanistan against the United Nations sanctions regime. They condemned the measures and blamed them for the deterioration in the prevailing humanitarian situation. The United Nations had very limited means to sensitize the population inside Afghanistan to the decisions of the Security Council, and was not in a position to counter those public misrepresentations or to project an objective perspective on the role and scope of the sanctions. This contributed to a widespread belief that the measures did indeed hurt the population. The Secretary-General therefore recommended that future sanctions regimes should give careful consideration to devising ways and means of providing the affected population with objective information on the specific nature of sanctions.

31. The Secretary-General's report further observed that the established monitoring and assessment mechanism and the regular reviews of the impact of the sanctions as well as the subsequent briefings and consultations with the Security Council and its Sanctions Committee had resulted in useful reflections and discussions on sanctions and their implications. He recommended that the Security Council might wish to consider establishing such a procedure for future sanctions regimes to monitor and assess possible unintended negative effects on the civilian populations of the targeted countries.

VIII. Conclusions and observations

32. The Committee was active in discharging its mandate, in particular in the implementation of resolution 1333 (2000), by which the Committee was requested to fulfil a number of complex tasks, including, pursuant to paragraph 16 (b), to establish and maintain updated lists, based on information provided by States and regional organizations, of individuals and entities designated as being associated with Osama bin Laden. Bearing in mind the security and political situation in Afghanistan in light of the developments after 11 September 2001, which fundamentally affected the framework under which the sanctions measures had been imposed, the Committee did not deem it necessary to convene substantive formal meetings in the last quarter of 2001. Nevertheless, the Committee, under the leadership of the Chairman and with the assistance of the Secretariat, continued to function on a daily basis to fulfil its mandate.

33. The Committee and its secretariat accumulated the valuable knowledge and experience in administering a very complex and time-limited sanctions regime, accompanied by a monitoring mechanism. The importance of such a sanctions regime has been generally recognized in light of the impact of the terrorist attacks of September 2001. The Committee also developed very close cooperation with the specialized agencies, in particular with ICAO and IATA, which greatly assisted the Committee in discharging its mandate. The Committee also cooperated closely with the Office for the Coordination of Humanitarian Affairs, which carried out the tasks entrusted to it by the Security Council.